

**THE HON'BLE SRI JUSTIE B.PRAKASH RAO
AND
THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN**

W.P.No. 17749 of 2005

Date: 20.07.2006

Between:

S. Mohan Rami Reddy.

... Petitioner

and

The Chairman, State Consumer Redressal Forum Hyderabad, A.P.
and others.

...

Respondents.

**THE HON'BLE SRI JUSTIE B.PRAKASH RAO
AND
THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN**

W.P.No. 17749 of 2005

ORDER: (per Hon'ble Sri Justice Ramesh Ranganathan)

Questioning the action of respondents 1 to 3, in not considering his candidature for appointment to the post of Member, District Consumer Forum, Chittoor, as unjust and against principles of natural justice and seeking a consequential direction to respondents 1 to 3 to recommend his candidature for appointment to the post of Member, District Consumer, Chittoor, the present writ petition is filed.

Facts, as stated in the affidavit filed in support of the writ petition, are that the petitioner retired as a Mandal Educational Officer in April 2002. While in service he completed his graduation in law and after retirement started formal legal practice. Petitioner claims to have 30 years experience in the field of education, in the capacity of a High School Teacher for 24 years, as a Headmaster for 4 years, thereafter as a Mandal Educational Officer for 3 years and after his retirement, for the past three years, to have been practicing as an Advocate. The petitioner appeared for the written test held on 24.7.2005, for selection of candidates to be appointed to the vacant post of Member, District Consumer Forum, Chittoor. From amongst 30 candidates, the petitioner along with two others was selected and called for interview. Both the petitioner and the

4th respondent appeared for interview on 26.7.2005. Respondents 1 to 3 recommended the 4th respondent for appointment to the post of Member, District Consumer Forum, Chittoor, instead of the petitioner herein.

The petitioner would contend that the 4th respondent, who was working as a Head Clerk in the VIII Additional District Judge (Fast Tract Court), Chittoor, could not have been preferred ignoring his claim for appointment, as he has the requisite experience in teaching and in public relations and is eligible and fully qualified to be appointed as a Member of the District Consumer Forum, Chittoor.

The 1st respondent, in his counter affidavit, would state that a written test was conducted on 24.7.2005 and amongst the 30 candidates, who appeared in the written test, three candidates, basing on the highest marks secured, were selected for interview. In the interview held on 26.7.2005, the selection committee recommended the candidature of the 4th respondent since he secured the highest marks in the written test and had also faired well in the oral test. It is stated that the 4th respondent has vast experience as an Administrative Officer in the District Court and, even after his retirement, has been working in the judicial field. It is further stated that the Head Clerk post in the Fast Track Court, Chittoor, in which the 4th respondent was employed, was an honorary post and was not a bar for considering his candidature. Respondents would submit that the relevant merits and demerits of the petitioner and the 4th respondent were considered and that the 4th respondent was rightly selected and his candidature

recommended to the Government.

The 4th respondent in his counter affidavit would submit that he worked as a Head Clerk in the VIII Additional District Court (FTC), Chittoor from 26.4.2003 to 31.3.2005 on contract basis and that his term of office was extended by another two years from 1.4.2005. He would submit that he was not a regular employee, that he was paid consolidated pay and it could not be said that he was holding a job and could not be preferred for appointment as a Member of the District Consumer Forum. An additional counter affidavit was filed by the 4th respondent in reply to the petitioner's contention that he did not possess the qualification prescribed for appointment to the post of Member, District Forum. The 4th respondent would state therein that he is a B.A. B.L and while in service he had passed several departmental tests, that he worked in the judicial department for more than 30 years and in administrative posts for more than 10 years, details of which are as under:

“(1) Head Clerk of Munsif Magistrate Courts from 30.6.1992 to 12.1.1996
(2) Translator in District Sessions Court from 13.1.1996 to 10.7.1996
(3) Head Clerk of Addl. District Court (Cat.II Post) from 11.7.1996 to 18.11.1996
(4) Sheristadar of Principal Sub-Court, Tirupati from 18.11.1996 to 2.5.1998
(5) Head Clerk of 1st Addl. District Court, Chittoor from 3.5.1998 to 7.9.2001
(6) Administrative Officer, District Court, Kurnool from 13.9.2001 to 31.1.2003 (Gazetted post)”

In so far as his appointment as Head Clerk of the VIII Additional District Court (F.T.C) is concerned, 4th respondent would state that he resigned from the said post on 10.5.2006 and was relieved on the afternoon of the same day.

Before examining the rival contentions it is necessary to take note of the relevant statutory provisions governing

appointment of Members of District Consumer Forums.

Section 10(1) of the Consumer Protection Act reads as under:

“Composition of the District Forum: (1) Each District Forum shall consist of:- (1) Each District Forum shall consist of:

- (a) a person who is, or has been, or is qualified to be a District judge who shall be its President;
- (b) two other members, one of whom shall be a woman, who shall have the following qualifications, namely -
 - (i) be not less than thirty five years age,
 - (ii) possess a bachelor's degree from a recognized university;
 - (iii) be person of ability, integrity and standing, and have adequate knowledge and experience at least ten years in dealing with problems relating to economics, law, commerce, accountancy, industry, public affairs or administration;

Provided that a person shall be disqualified for appointment as member if he-

- (a) has been convicted and sentenced to imprisonment for an offence which, in the opinion of the state Government, involves moral turpitude; or
- (b) is an undischarged insolvent; or
- (c) is of unsound mind and stand so declared by a competent court; or
- (d) has been removed or dismissed from the service of the Government or a body corporate owned or controlled by the Government; or
- (e) has, in the opinion of the State Government, such financial or other interest as is likely to affect prejudicially the discharge by him of his functions as a member ; or
- (f) has such other disqualifications as may be prescribed by the State Government

(1-A): Every appointment under sub-section (1) shall be made by the State Government on the recommendations of Selection Committee consisting of the following namely:

- (i) The President of the State commission Chairman
- (ii) Secretary, Law Department of the State .. Member
- (iii) Secretary in charge of the Department
dealing with consumer affairs in the State .. Member

Provided that where the President of the State commission is, by reason of absence or otherwise, unable to act as Chairman of the Selection Committee, the State Government may refer the matter to the Chief Justice of the High Court for nominating a sitting judge of that High Court to act as Chairman.

(2) Every member of the District Forum shall hold office for a term of five years or up to the age of sixty five years whichever is earlier”

Under Section 10(1)(b)(iii), for being appointed as a Member of the District Consumer Forum, the appointee must be a person of ability, integrity and standing, and must have adequate knowledge and experience, of at least 10 years, in dealing with problems relating to economics, law, commerce, accountancy, industry, public affairs or administration. The fact that the 4th respondent has been working in the judicial department for more than 30 years and in administrative posts for more than 10 years is clear from the additional counter affidavit filed by him. The petitioner, on his own admission, had experience only in the field of education which is not one among those areas specified in Section 10(1)(b)(iii). Be that as it may, even if the petitioner were to be held to possess the requisite qualifications, the fact remains that the 4th respondent also possesses the qualifications prescribed under Section 10(1)(b)(iii) of the Consumer Protection Act.

In exercise of the powers conferred under Section 30(2) of the Consumer Protection Act, the Consumer Protection Rules, 1987 were made. Rule 6-A thereof prescribed the procedure for selection of members and reads thus:

- “1) Save as otherwise prescribed in sub-rule(2) the process of appointment of members shall be initiated at least three months before the vacancy arise;
- 2) If a post falls vacant due to resignation or death of a Member or creation of new post, the process for filling the post shall be initiated immediately after the post has fallen vacant or is created, as the case may be.
- 3) A notification shall be issued in the two leading news papers, one in Telugu and another in English, calling for the applications for all the posts of the Members of the District Consumer Forum as well as State commission which are going to fall vacant before 31st December of every year
- 4) The notification shall contain that the selection of candidates shall be made in consonance with the directions issued by the Government of India to keep a panel of members ready for appointment as and when the vacancy

arises.

5) In the notification, it shall be mentioned that the candidates shall have to appear for written test, as prescribed by the State Government and the three top ranking candidates shall be interviewed for selection for empanelment.

6) After scrutiny of the applications received till the last date specified for receipt of applications, a list of eligible candidates along with their applications and the merit list prepared after conduct of the written test as prescribed shall be placed before the Selection Committee constituted under the third proviso to sub-section (1) of section 20 of the Consumer Protection Act, 1986.

7) The Selection Committee shall, on the basis of the assessment made by it interview the three top ranking candidates satisfying the eligibility criteria, and recommend a panel of names of candidates for appointment as Member from amongst the applicants in order of merit for the consideration of the State Government.

8) The State Government shall, before making the appointments, verify or cause to be verified the credentials and antecedents of the candidates selected by the State Government from the panel recommended by the Selection Committee and satisfy the suitability of such candidates for appointment as Members.

9) The list of selected candidates shall be sent to the Government for approval of the recommendations and issue orders appointing the selected candidates as members after getting the credentials and antecedents of the proposed candidates for appointment as members.

10) Every appointment of member shall be subject to his/her medical fitness”

Under sub-rule (7) of Rule 6A, three top ranking candidates, satisfying the eligibility criteria, are required to be interviewed by the Selection Committee and based on their assessment, a panel of names, for appointment as Member of the District Forum, in the order of merit, is required to be recommended for consideration of the State Government. The three top ranked candidates called for interview included the petitioner and the 4th respondent and the Selection Committee, on a comparative assessment of their relative merits, and in as much as the 4th respondent stood first in the written test and satisfied the criteria prescribed for appointment, recommended his name in preference to the petitioner herein. Sine the Selection Committee had acted in accordance with the provisions of the Consumer Protection Act

and the Rules made thereunder it is not for this Court, in proceedings under Article 226 of the Constitution of India, to sit in appeal over their decision or to make a comparative assessment of the relative merits of the petitioner and 4th respondent herein. This Court would also not re-evaluate the exercise carried out by the Selection Committee or sit in appeal over their decision. The action of respondents 1 to 3 in selecting the 4th respondent and recommending his case for appointment as a Member of the District Consumer Forum, Chittoor does not call for interference.

The writ petition fails and is accordingly dismissed. However, in the circumstances, without costs.

B.PRAKASH RAO, J

Date: -06-2006

RAMESH RANGANATHAN, J

asp